

# **EXHIBIT 3**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

--oOo--

FACEBOOK, INC., a Delaware	)	
corporation,	)	
	)	
Plaintiff,	)	
	)	Case No.
vs.	)	C-08-05780-FJ
	)	
POWER VENTURES, INC. d/b/a	)	
POWER.COM, a California	)	
corporation; POWER VENTURES,	)	
INC., a Cayman Island	)	
Corporation; STEVEN VACHANI, an	)	
individual; DOE 1, d/b/a	)	
POWER.COM, an individual and/or	)	
business entity of unknown	)	
nature; DOES 2 through 25,	)	
inclusive, individuals and/or	)	
business entities of unknown	)	
nature,	)	
	)	
Defendants.	)	
_____	)	

CONFIDENTIAL DEPOSITION OF  
CRAIG CLARK

\_\_\_\_\_  
Thursday, February 17, 2011  
Volume 1 (Pages 1 - 135)

REPORTED BY: ANA M. DUB, RMR, CRR, CSR 7445  
(03-433213)

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2  
3 called as a witness by the Defendants Power  
4 Ventures, Inc., and Steven Vachani who, having been  
5 first duly sworn, was examined and testified as  
6 follows:

7 --oOo--

8 P R O C E E D I N G S

9 THE VIDEOGRAPHER: This is the video  
10 operator speaking, Jennifer McKay of Merrill Legal  
11 Solutions, 225 Varick Street, New York, New York  
12 10014.

13 Today is February 17th, 2011, and the time  
14 is 9:15. We're at the offices of Orrick Herrington  
15 in San Francisco, California, to take the deposition  
16 of Craig Clark in the matter of Facebook, Inc. vs.  
17 Power Ventures, Inc., in United States District  
18 Court, Northern District of California. The case  
19 number is 5:08-CV-05780 JF RS.

20 Will counsel please introduce themselves  
21 for the record.

22 MR. CHATTERJEE: Neel Chatterjee for  
23 Facebook.

24 MR. BURSOR: Scott Bursor for the  
25 defendants Power Ventures and Steven Vachani.

09:08:12  
09:15:05  
09:15:06  
09:15:09  
09:15:13  
09:15:15  
09:15:19  
09:15:23  
09:15:26  
09:15:30  
09:15:31  
09:15:36  
09:15:46  
09:15:49  
09:15:51  
09:15:52  
09:15:53  
09:15:55

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1	A. I speak with product folks. I manage some	09:16:53
2	of the motion practice in subpoena cases.	09:16:58
3	Q. What are subpoena cases?	09:17:07
4	A. Somebody subpoenas Facebook for records.	09:17:08
5	Q. How long have you been at Facebook?	09:17:12
6	A. Since September 2009.	09:17:13
7	Q. What'd you do before that?	09:17:15
8	A. I was a lawyer.	09:17:16
9	Q. Where?	09:17:18
10	A. White & Case.	09:17:19
11	Q. Where?	09:17:23
12	A. Palo Alto.	09:17:24
13	Q. Okay. Have you ever held any other	09:17:29
14	position at Facebook besides litigation counsel?	09:17:32
15	A. No.	09:17:35
16	Q. Well, let me introduce myself again. My	09:17:37
17	name's Scott Bursor. I'm also a lawyer. I	09:17:39
18	represent the defendants in this lawsuit, Facebook	09:17:42
19	against Power Ventures and Steven Vachani.	09:17:44
20	And I'm going to take your deposition	09:17:47
21	today. You understand that's what's happening?	09:17:49
22	A. Yes.	09:17:52
23	Q. You were a litigator at White & Case?	09:17:52
24	A. I was.	09:17:55
25	Q. Yeah. So you've been involved in many,	09:17:55

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1	A. I understand.	09:32:42
2	MR. CHATTERJEE: Argumentative.	09:32:43
3	Scott, you know, you don't need to argue	09:32:43
4	with him. If you want to ask him a question about	09:32:45
5	his factual knowledge, you can. He wasn't even at	09:32:48
6	the company when this complaint was filed.	09:32:51
7	MR. BURSOR: Q. I'm asking a factual	09:32:54
8	question. Do you understand that Facebook's lawyer	09:32:56
9	wrote this sentence?	09:32:58
10	A. I do not know who wrote this sentence.	09:32:59
11	Q. All right. Sitting here today, is it true	09:33:01
12	that Facebook users may be contacted only by	09:33:02
13	Facebook or other registered Facebook users?	09:33:05
14	A. I think that you need to read this	09:33:09
15	paragraph in the context with the other paragraphs.	09:33:12
16	But if you're talking about users of the site being	09:33:14
17	contacted through the site, then yes.	09:33:18
18	Q. So that is true?	09:33:20
19	MR. CHATTERJEE: Asked and answered.	09:33:23
20	THE WITNESS: I gave you my answer.	09:33:24
21	MR. BURSOR: All right. Can you read back	09:33:25
22	the prior answer, please.	09:33:33
23	(Record read as follows:	09:33:34
24	"ANSWER: I think that you need to read	09:33:49
25	this paragraph in the context with the	09:33:49

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1	MR. BURSOR: Q. But that's what I'm	09:36:12
2	asking. So far as you're aware, there have been no	09:36:13
3	instances where an e-mail from an outside source was	09:36:16
4	transmitted to a user's Facebook account?	09:36:19
5	MR. CHATTERJEE: Lacks foundation, calls	09:36:22
6	for speculation.	09:36:23
7	THE WITNESS: I don't know.	09:36:24
8	MR. BURSOR: Q. Okay. Sitting here	09:36:27
9	today, can you identify any instance when that has	09:36:28
10	happened?	09:36:32
11	MR. CHATTERJEE: Same objections.	09:36:33
12	THE WITNESS: I cannot.	09:36:35
13	MR. BURSOR: Q. So in order for --	09:36:40
14	A. Unless . . .	09:36:43
15	There's a message in this complaint.	09:36:51
16	Well, I don't know. I would be speculating based on	09:36:57
17	my knowledge today, so . . .	09:37:03
18	Q. All right. Now, you're familiar with the	09:37:25
19	concept of adding a friend to your profile on	09:37:26
20	Facebook?	09:37:29
21	A. I don't know what you mean by "familiar."	09:37:30
22	Am I familiar with the code? Am I familiar with	09:37:31
23	what, what aspect of it?	09:37:34
24	Q. The user experience.	09:37:35
25	A. Yeah.	09:37:36

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1	testimony.	10:04:18
2	THE WITNESS: I remember --	10:04:18
3	MR. BURSOR: In terms of documents.	10:04:18
4	MR. CHATTERJEE: Okay.	10:04:19
5	THE WITNESS: I remember looking at	10:04:20
6	e-mails.	10:04:21
7	MR. BURSOR: Q. What factual information	10:04:25
8	did you garner from the e-mails you looked at?	10:04:27
9	A. Background details on the investigation of	10:04:29
10	Power.com's activities: scraping, spamming.	10:04:31
11	Q. Anything else?	10:04:46
12	A. Not that I recall.	10:04:47
13	Q. In the course of your work verifying these	10:04:51
14	interrogatory responses, did you review any	10:04:58
15	documents related to customers -- users of Facebook	10:05:05
16	complaining about Power's activities?	10:05:09
17	A. I did not.	10:05:12
18	Q. Have you ever seen a document concerning a	10:05:15
19	Facebook user complaining about something that Power	10:05:17
20	did on Facebook?	10:05:20
21	A. I don't believe so.	10:05:25
22	Q. Have you ever had a conversation with	10:05:25
23	anyone inside Facebook about a Facebook user	10:05:26
24	complaining about something that Power did on	10:05:32
25	Facebook?	10:05:35

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1	Q. How do you know that?	10:10:38
2	A. Because of the message itself. The	10:10:38
3	message was not -- was initiated by Power and says	10:10:41
4	that it comes from Facebook.	10:10:48
5	Q. Can you tell me the name of anyone that	10:10:53
6	was misled by this message?	10:10:54
7	A. I can't.	10:10:57
8	Q. Have you ever seen a document referring to	10:10:58
9	anyone being misled by this message?	10:11:00
10	A. Yes.	10:11:03
11	Q. What was that document?	10:11:04
12	A. This document.	10:11:05
13	Q. The Amended Complaint written by	10:11:06
14	Facebook's lawyers?	10:11:08
15	A. That's -- that's one document.	10:11:09
16	Q. Okay. That's one. Are there any others?	10:11:11
17	A. Yes. The e-mail message itself would be	10:11:14
18	an example of a message that is misleading.	10:11:19
19	Q. Are you aware of any document that could	10:11:22
20	be used to provide the name of anyone who was	10:11:26
21	supposedly misled by this message?	10:11:29
22	MR. CHATTERJEE: Vague.	10:11:33
23	THE WITNESS: I believe that anyone who	10:11:35
24	received this message would have been misled.	10:11:37
25	MR. BURSOR: Q. So just from the fact	10:11:39



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1	Q. Okay. Isn't it true that the one-and-only	10:20:55
2	party with any control over the content of that	10:21:01
3	header -- you refer to that as a header; right?	10:21:05
4	MR. CHATTERJEE: Vague.	10:21:09
5	MR. BURSOR: Q. When you said "header"	10:21:10
6	earlier today, this is what you were talking about;	10:21:11
7	right?	10:21:13
8	A. I was talking to all the information that	10:21:13
9	is not the body of the message.	10:21:15
10	Q. All right. So let me focus in on just the	10:21:17
11	"from" line. Okay? The one-and-only party that has	10:21:19
12	any control over the content of that line is	10:21:23
13	Facebook itself; isn't that true?	10:21:26
14	MR. CHATTERJEE: Speculation.	10:21:29
15	THE WITNESS: As I said, I'm not sure. I	10:21:30
16	believe so, but I'm not sure.	10:21:33
17	MR. BURSOR: Q. If Power wanted to change	10:21:37
18	that line just to say "From: Power," they have no	10:21:38
19	ability to do that; isn't that true?	10:21:43
20	MR. CHATTERJEE: Speculation.	10:21:46
21	THE WITNESS: I don't believe they would.	10:21:48
22	MR. BURSOR: Q. There's no one at Power	10:21:50
23	that wrote "From: Facebook <eventmaster . . . ."	10:21:51
24	and the rest of that line; right? That drafting did	10:21:56
25	not come from anyone at Power?	10:21:59

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1	MR. CHATTERJEE: Speculation.	10:22:02
2	THE WITNESS: I don't believe anybody	10:22:03
3	would draft this. This would be an automated part	10:22:03
4	of the e-mail creation that would occur when	10:22:06
5	somebody initiated the transmission of a message.	10:22:09
6	Right. So, I mean, there's nobody sitting	10:22:15
7	there typing the "from" line.	10:22:17
8	MR. BURSOR: Q. Right.	10:22:21
9	A. That would be part of how e-mail works.	10:22:22
10	Q. That "from" line was automatically	10:22:32
11	generated by Facebook's computers; right?	10:22:34
12	MR. CHATTERJEE: Speculation.	10:22:38
13	THE WITNESS: That's pretty -- excuse me.	10:22:40
14	That's pretty -- I'm sorry.	10:22:47
15	Can you repeat the -- can you read back	10:22:48
16	the question?	10:22:50
17	(Record read as follows:	10:22:50
18	"QUESTION: That 'from' line was	10:22:55
19	automatically generated by Facebook's	10:22:55
20	computers; right?")	10:22:55
21	THE WITNESS: Automatically generated by	10:22:56
22	Facebook's computers or their systems, based on a	10:23:00
23	prompt from somebody outside. Right? Could be a	10:23:07
24	user. Could be whoever -- whoever's creating the	10:23:13
25	event.	10:23:15

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1	MR. BURSOR: Yeah, yeah.	10:26:27
2	THE WITNESS: Is that -- let's proceed.	10:26:27
3	MR. BURSOR: Q. All right. So you recall	10:26:28
4	saying more than ten times today that Power	10:26:29
5	initiated this message; right?	10:26:31
6	A. I don't recall how many times it was, but	10:26:33
7	yes, Power initiated this message.	10:26:35
8	Q. That's part of your story; right?	10:26:37
9	A. Does that --	10:26:41
10	MR. CHATTERJEE: Objection; argumentative.	10:26:42
11	Do you have a question that's actually	10:26:43
12	going to factual knowledge, Scott?	10:26:44
13	MR. BURSOR: Q. You see "Subject: Nik"?	10:26:47
14	You see that?	10:26:49
15	A. I see it.	10:26:50
16	Q. And then do you see in the body of the	10:26:51
17	message it says "Nik invited you"?	10:26:52
18	A. Mm-hmm, yes.	10:26:54
19	Q. Who's Nik?	10:26:57
20	A. I don't know who Nik is.	10:27:00
21	Q. Did Nik initiate this message?	10:27:02
22	MR. CHATTERJEE: Speculation.	10:27:04
23	THE WITNESS: I don't know who Nik is, so	10:27:05
24	I don't know if Nik initiated this message.	10:27:07
25	But my understanding is this was initiated	10:27:09

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1	on behalf of a user named Nik through Power.	10:27:13
2	MR. BURSOR: Q. What's the basis for that	10:27:17
3	understanding?	10:27:18
4	A. The --	10:27:20
5	MR. CHATTERJEE: Attorney-client	10:27:21
6	privilege. Instruction not to answer.	10:27:21
7	MR. BURSOR: Q. Did you rely on that	10:27:28
8	understanding when you signed the verification to	10:27:29
9	the interrogatory responses?	10:27:31
10	A. What understanding?	10:27:35
11	Q. The understanding you just testified to,	10:27:38
12	that Power initiated this message.	10:27:40
13	A. Yes. That, I believe, underpins	10:27:43
14	everything. Power initiated the message based on	10:27:46
15	the way it was -- contact importing and scraping --	10:27:49
16	(Court reporter clarifies.)	10:27:59
17	THE WITNESS: Contact importing and	10:27:59
18	logging into Facebook on behalf of other people	10:27:59
19	without permission.	10:28:03
20	MR. BURSOR: Q. Without whose permission?	10:28:05
21	A. Without Facebook's permission.	10:28:08
22	Q. Did they have Nik's permission?	10:28:09
23	A. Without the user's permission.	10:28:10
24	Q. Did they have Nik's permission?	10:28:12
25	A. I don't know who Nik is. I don't believe	10:28:14

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1	Facebook?	10:32:42
2	A. Ryan McGeehan.	10:32:44
3	Q. Did you discuss with Ryan McGeehan how	10:32:46
4	this event was created?	10:32:48
5	A. Yeah. I believe it was -- I believe that	10:32:54
6	involved counsel as well. So I may have got it	10:32:57
7	secondhand.	10:33:01
8	Q. So the only information you have about	10:33:05
9	this message came to you filtered through Facebook's	10:33:07
10	lawyers who are litigating the case; isn't that	10:33:10
11	true?	10:33:12
12	MR. CHATTERJEE: Object to the form;	10:33:13
13	argumentative.	10:33:14
14	THE WITNESS: I don't think that's what I	10:33:16
15	said. But as I wasn't here when the complaint -- I	10:33:17
16	wasn't working at Facebook when the complaint was	10:33:22
17	filed, pretty much, yeah, my knowledge of this	10:33:24
18	Amended Complaint is based on that.	10:33:27
19	MR. BURSOR: Q. I'm not asking about your	10:33:29
20	knowledge of the Amended Complaint. I'm asking	10:33:31
21	about your knowledge of how the event that led to	10:33:33
22	the message in paragraph 70 was created.	10:33:35
23	And you don't have any knowledge about	10:33:37
24	that; right?	10:33:38
25	A. No, that's not true. I do have knowledge.	10:33:40

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1	produce the documents, we might be able to	10:35:41
2	supplement; but you're asking him -- I don't know	10:35:43
3	what you're asking him about. He wasn't even at the	10:35:44
4	company when this stuff happened.	10:35:47
5	MR. BURSOR: Q. You made statements that	10:35:48
6	Power scraped from the website; right?	10:35:49
7	A. Mm-hmm.	10:35:51
8	Q. Yes?	10:35:52
9	A. Yes.	10:35:52
10	Q. You don't have any basis to make that	10:35:53
11	statement other than what you heard from Facebook's	10:35:55
12	lawyers; isn't that true?	10:35:57
13	A. Other than what I heard from Facebook's	10:36:02
14	lawyers.	10:36:04
15	Q. Right.	10:36:04
16	A. I don't -- no. I have basis based on the	10:36:05
17	investigation that -- yeah, and the investigation	10:36:08
18	came through Facebook's lawyers.	10:36:11
19	My discussion with Facebook's lawyers, my	10:36:13
20	discussion with Ryan McGeehan, yes, that's where my	10:36:15
21	knowledge comes from.	10:36:18
22	Q. So you don't have any firsthand knowledge	10:36:20
23	of anything that Power did; right?	10:36:21
24	A. I was not at the company --	10:36:23
25	Q. That's not --	10:36:25

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1	A. -- then.	10:36:25
2	Q. -- my question.	10:36:25
3	My question is: You don't have any	10:36:26
4	firsthand knowledge of anything Power did; right?	10:36:27
5	A. Firsthand knowledge? No. I've never used	10:36:31
6	Power's site.	10:36:33
7	Q. And you don't have -- even have any	10:36:34
8	secondhand knowledge other than what you've heard	10:36:36
9	from lawyers?	10:36:38
10	A. I don't understand --	10:36:40
11	MR. CHATTERJEE: Vague.	10:36:41
12	THE WITNESS: -- that question.	10:36:41
13	MR. BURSOR: Q. All right. Isn't it true	10:36:43
14	that Facebook itself initiated the message in	10:36:50
15	paragraph 70?	10:36:54
16	A. No.	10:36:56
17	MR. CHATTERJEE: Calls for speculation.	10:36:57
18	MR. BURSOR: Q. All right. How do you	10:36:57
19	know that that's not true?	10:36:58
20	A. Based on my understanding of what Power	10:37:01
21	was doing at the site, they were the initiators of	10:37:03
22	the message.	10:37:07
23	Q. Based on your -- what is your	10:37:08
24	understanding of what Power did on the site?	10:37:09
25	A. My understanding is that they were -- they	10:37:12

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1	were soliciting people's log-in information and, in	10:37:15
2	this instance, offering monetary compensation to	10:37:19
3	send invites to get people to sign up for Power.	10:37:23
4	Q. And where did you get that information	10:37:30
5	from?	10:37:31
6	A. My knowledge at the company working in a	10:37:33
7	legal role.	10:37:36
8	Q. So that part's not privileged?	10:37:37
9	A. I don't know what "that part" is that	10:37:42
10	you're referring to.	10:37:44
11	This message is not privileged.	10:37:49
12	Q. You see at the bottom of the page where it	10:37:59
13	says "Thanks, The Facebook Team"?	10:38:01
14	A. Mm-hmm.	10:38:04
15	Q. Yes?	10:38:04
16	A. Yes.	10:38:05
17	Q. Who wrote that?	10:38:05
18	MR. CHATTERJEE: Speculation.	10:38:07
19	THE WITNESS: I don't know.	10:38:10
20	MR. BURSOR: Q. Didn't Facebook itself	10:38:11
21	write that?	10:38:13
22	MR. CHATTERJEE: Same objections.	10:38:14
23	THE WITNESS: I don't know.	10:38:15
24	MR. BURSOR: Q. Isn't it true that	10:38:15
25	Facebook appends that very same text to every e-mail	10:38:17



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1	communication it sends after an event is created?	10:38:20
2	MR. CHATTERJEE: Same objection.	10:38:24
3	Speculation.	10:38:25
4	THE WITNESS: I don't know.	10:38:26
5	MR. BURSOR: Q. Do you think it's	10:38:26
6	misleading for Facebook to do that if Facebook is	10:38:27
7	not, in fact, the initiator of the message?	10:38:30
8	MR. CHATTERJEE: Form.	10:38:34
9	THE WITNESS: Could you break that down?	10:38:38
10	MR. BURSOR: Q. Sure. Facebook put that	10:38:39
11	text in the message?	10:38:40
12	A. I don't --	10:38:42
13	Q. You understand that; right?	10:38:42
14	A. I don't know.	10:38:43
15	Q. Well, let me ask you to assume that that's	10:38:43
16	true. Do you think that's misleading?	10:38:46
17	MR. CHATTERJEE: Incomplete hypothetical.	10:38:48
18	THE WITNESS: Are you asking me --	10:38:50
19	MR. BURSOR: Q. Let me ask you a more	10:38:54
20	specific question.	10:38:55
21	A. Great.	10:38:56
22	Q. You created an event on Facebook; right?	10:38:56
23	A. I have created an event on Facebook.	10:38:59
24	Q. How many events have you created?	10:39:01
25	A. I don't know.	10:39:03

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1	of this message?	10:45:57
2	A. I don't recall.	10:45:58
3	Q. You didn't even bother to look for that	10:45:59
4	before you signed the verification?	10:46:02
5	MR. CHATTERJEE: Argumentative.	10:46:02
6	THE WITNESS: That's not what I said. I	10:46:03
7	said I don't recall.	10:46:04
8	MR. BURSOR: Q. So it's possible you	10:46:06
9	looked at it?	10:46:07
10	A. I don't recall looking at it.	10:46:08
11	Q. So you don't know what's behind the	10:46:11
12	redaction there?	10:46:13
13	A. I do not recall.	10:46:15
14	Q. So do you see where it says -- so it's not	10:46:18
15	Power that redacted it; right?	10:46:20
16	A. I don't recall. But given that this is	10:46:24
17	our complaint, I assume we made the redactions.	10:46:26
18	Q. So you see where it says "Nik invited you	10:46:31
19	to the event"? See that?	10:46:33
20	A. I see where it says:	10:46:34
21	"Nik [Redacted] invited you	10:46:36
22	to the event" --	10:46:39
23	Q. Okay.	10:46:40
24	A. -- "'Bring --	10:46:41
25	Q. No. I'm only asking --	10:46:42

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1	A.	"100 friends" --	10:46:43
2	Q.	-- you about that part.	10:46:43
3		"Nik . . . invited you to the	10:46:44
4		event" --	10:46:45
5		"Nik [Redacted] invited you	10:46:46
6		to the event . . . ."	10:46:48
7		Can you focus in on that?	10:46:48
8	A.	I can focus in on that, yes.	10:46:50
9	Q.	Who wrote that?	10:46:51
10		MR. CHATTERJEE: Speculation.	10:46:52
11		THE WITNESS: I don't recall -- or I don't	10:46:54
12		know.	10:46:55
13		MR. BURSOR: Q. Who would know the answer	10:47:08
14		to that?	10:47:11
15	A.	Again, I believe the header information,	10:47:12
16		as with other elements of this message, would have	10:47:15
17		been auto-generated. So as far as "write this," I	10:47:18
18		don't know would write this.	10:47:23
19	Q.	It would have been auto-generated by whom?	10:47:26
20	A.	By the --	10:47:32
21		MR. CHATTERJEE: Vague.	10:47:33
22		THE WITNESS: By the system that was	10:47:34
23		called to send out the invitation.	10:47:37
24		MR. BURSOR: Q. What system is that?	10:47:40
25	A.	That would probably be Facebook's system.	10:47:41

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1	Q. What outside counsel?	11:06:10
2	A. I spoke with Orrick, and I spoke with	11:06:11
3	Perkins Coie about pre-filing investigation.	11:06:17
4	Q. Did either the Orrick firm or the Perkins	11:06:26
5	Coie firm make a pre-filing investigation to	11:06:28
6	determine to whom this message had been sent?	11:06:33
7	MR. CHATTERJEE: Speculation. I'm going	11:06:38
8	to let him answer as long as you agree it's not any	11:06:40
9	waiver of any privilege or work product.	11:06:44
10	MR. BURSOR: Sure.	11:06:46
11	THE WITNESS: I was not at Facebook at the	11:06:47
12	time the pre-filing investigation was done.	11:06:48
13	MR. BURSOR: Q. All right. But that	11:06:50
14	wasn't my question. My question was: Did either of	11:06:51
15	those two firms, Orrick -- the Orrick firm or the	11:06:53
16	Perkins Coie firm, make a pre-filing investigation	11:06:57
17	to determine to whom this message had been sent?	11:07:00
18	MR. CHATTERJEE: Same objection. We're	11:07:04
19	okay? I don't mind him answering as long as you	11:07:05
20	agree there's no waiver.	11:07:08
21	MR. BURSOR: That's fine.	11:07:09
22	THE WITNESS: I know a pre-filing	11:07:10
23	investigation was done.	11:07:11
24	MR. BURSOR: Q. Do you know if the	11:07:12
25	pre-filing investigation involved looking into who	11:07:12

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1	language about compensatory damages aside, just are	11:16:28
2	you aware of any economic loss that Facebook has	11:16:31
3	suffered as a result of the actions of Power?	11:16:35
4	MR. CHATTERJEE: Same instruction.	11:16:39
5	If you have personal knowledge of it, you	11:16:41
6	can go ahead and answer; but if it's privileged	11:16:43
7	information, you shouldn't.	11:16:46
8	THE WITNESS: Yeah, I don't think I can	11:16:50
9	answer that without getting into attorney-client	11:16:51
10	privilege.	11:16:53
11	MR. BURSOR: Q. Do you have any personal	11:16:55
12	knowledge of such a loss?	11:16:56
13	A. Same answer.	11:16:59
14	Q. Can you identify anything that Power did	11:17:26
15	that caused Facebook to lose money?	11:17:27
16	A. Same answer.	11:17:33
17	Q. You can't answer?	11:17:33
18	A. I can't answer that.	11:17:34
19	MR. BURSOR: Let me ask the court reporter	11:17:56
20	to mark as Exhibit 1-4 a single-page document. It's	11:17:57
21	Defendant's First Request for Production Pursuant to	11:18:00
22	Federal Rule of Civil Procedure 34. It's dated	11:18:03
23	October 8th, 2010.	11:18:07
24	(Whereupon, Defendants' Exhibit 1-4 was	11:18:32
25	marked for identification.)	11:18:32

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1	MR. BURSOR: Q. Mr. Clark, you have	11:18:34
2	Exhibit 1-4?	11:18:34
3	A. I do.	11:18:36
4	Q. Have you seen that before?	11:18:37
5	A. Not that I recall.	11:18:39
6	Q. You know what a document request is;	11:18:46
7	right?	11:18:47
8	A. I do.	11:18:47
9	Q. Now, I already asked you about No. 3	11:18:48
10	because earlier today I asked you if you were aware	11:18:50
11	of any documents concerning any complaints made by	11:18:52
12	Facebook users and you told me you were not.	11:18:57
13	Do you remember that?	11:18:59
14	A. I did.	11:19:00
15	Q. So I want to ask the same question about	11:19:01
16	Item 1.	11:19:03
17	A. Excuse me.	11:19:08
18	Q. Are you aware of any document concerning	11:19:08
19	any injury that Facebook suffered as a result of the	11:19:12
20	events described in the First Amended Complaint?	11:19:14
21	Just the existence of a document.	11:19:16
22	A. I don't know.	11:19:23
23	Q. As you sit here today, you couldn't	11:19:25
24	identify any document that would relate to that?	11:19:26
25	A. No, I don't believe I can.	11:19:33

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1 Q. And I want to ask the same as to Request 11:19:35  
2 No. 2. As you sit here today, are you aware of any 11:19:38  
3 document concerning any expenditure that Facebook 11:19:44  
4 made as a result of the events described in 11:19:47  
5 Facebook's First Amended Complaint? 11:19:49

6 A. Am I aware of the existence of any 11:19:58  
7 documents regarding expenditures that Facebook made 11:20:00  
8 as a result of the events described in the First 11:20:06  
9 Amended Complaint? 11:20:08

10 Q. Yes. 11:20:09

11 A. Yes. 11:20:09

12 Q. Other than Mr. Chatterjee's bills and the 11:20:10  
13 Perkins Coie bills. 11:20:12

14 A. I can't discl- -- documents exist that 11:20:14  
15 would probably all be work product. There may be 11:20:18  
16 other documents. As with all these cases, there may 11:20:20  
17 be other documents. 11:20:23

18 I'm not saying no documents exist. I'm 11:20:24  
19 saying I'm not aware of any. That's all. 11:20:26

20 Q. So you're not aware of any documents that 11:20:29  
21 are responsive to any of these three categories? 11:20:30

22 A. As I sit here today, I'm not aware of any 11:20:33  
23 specific documents. 11:20:34

24 Q. And when you met with Mr. Chatterjee 11:20:35  
25 earlier this week, you didn't see any documents that 11:20:37

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1	it was the easiest.	11:22:10
2	A. Right.	11:22:11
3	Q. All right. You testified that you weren't	11:22:11
4	aware --	11:22:12
5	A. But -- okay. Go ahead.	11:22:13
6	Q. You see 3 asks for any complaints Facebook	11:22:14
7	users made as a result of the events described in	11:22:18
8	Facebook's First Amended Complaint? You see that?	11:22:20
9	A. I see that.	11:22:22
10	Q. But you've never seen any documents like	11:22:23
11	that; right?	11:22:25
12	MR. CHATTERJEE: Overly broad, vague.	11:22:29
13	THE WITNESS: Again, there are documents	11:22:30
14	I've seen that may be responsive to this category.	11:22:34
15	If you're asking if I've seen any specific	11:22:36
16	complaints about Power.com, I have not.	11:22:38
17	MR. BURSOR: Q. Have you seen general	11:22:42
18	complaints about Power.com?	11:22:44
19	A. No.	11:22:46
20	Q. All right. So you haven't seen any	11:22:49
21	specific complaints and you haven't seen any general	11:22:51
22	complaints. What kind of complaints have you seen?	11:22:53
23	A. I've not seen any complaints regarding	11:22:56
24	Power.com based on my preparation for this	11:23:02
25	deposition or otherwise.	11:23:07



1                                   **CERTIFICATE OF REPORTER**

2                   I, ANA M. DUB, a Certified Shorthand  
3   Reporter, hereby certify that the witness in the  
4   foregoing deposition was by me duly sworn to tell  
5   the truth, the whole truth, and nothing but the  
6   truth in the within-entitled cause;

7                   That said deposition was taken down in  
8   shorthand by me, a disinterested person, at the time  
9   and place therein stated, and that the testimony of  
10   the said witness was thereafter reduced to  
11   typewriting, by computer, under my direction and  
12   supervision;

13                  That before completion of the deposition,  
14   review of the transcript [ ] was [X] was not  
15   requested. If requested, any changes made by the  
16   deponent (and provided to the reporter) during the  
17   period allowed are appended hereto.

18                  I further certify that I am not of counsel  
19   or attorney for either or any of the parties to the  
20   said deposition, nor in any way interested in the  
21   event of this cause, and that I am not related to  
22   any of the parties thereto.

23                  DATED: March 3, 2011.

24                                   Ana M. Dub

25                                   ANA M. DUB, RMR, CRR, CSR No. 7445